HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION No.12520 OF 2005

Dated 06-12-2005

Between:

Smt. K. Nagendramma, wife of Anjaneyulu, aged about 48 years, Occupation : Sarpanch, resident of Konidena Gram Panchayat, Ballikurava Mandal, Prakasam District.

….Petitioner.

And :

1. District Collector (Pt.Wing), Ongole, Prakasam District and others.

…Respondents.

ORDER :

This writ petition has been filed by Smt. K. Nagendramma assailing the action of the 1st respondent in keeping her under suspension as sarpanch of Konidena, Gram Panchayat pending enquiry.

2. Heard learned counsel for the petitioner and learned Government Pleader for Panchayat Raj and Rural Development appearing on behalf for the respondents.

3. The learned counsel for the petitioner submits that order of suspension pending enquiry came to be issued by the 1st respondent on 13-05-2005 and as six months period has been expired, continuation of suspension of the petitioner is contrary to the provisions of the A.P. Panchayat Raj Act, 1994.

4. It is not in dispute that the petitioner came to be kept under suspension as Sarpanch of Konidena, Gram Panchayat on 13-5-2005 vide proceedings Roc. No.1435/2004 (Pts).A1. Under Sub-Section 6 of Section 249 of the A.P. Panchayat Raj Act, 1994, the total period of suspension shall not exceed six months. Sub-Section 6 of Section 249 of the A.P. Panchayat Raj Act, 1994 reads as follows :

"If the District Collector is of the opinion that a Sarpanch or a Upa-Sarpanch or any member of a Gram Panchayat or the Government are of the opinion that any President or Vice-President or the "Chairperson" or "Vice-Chairperson" or any member of a Mandal Parishad or Zailla Parishad willfully omitted or refused to carry out the orders of Government for the proper working of the concerned local body or abused his position or the powers vested in him, and that the further continuance of such person in office would be determintal to the interests of the concerned local body or the inhabitants of the village, Mandal or District, the District Collector or as the case may be, Government may, by order, suspend such Sarpanch or Upa-Sarpanch or President or Vice-President or as the case may be, the "Chairperson" or "Vice-Chairperson" or member from office for a period not exceeding three months, pending investigation into the said charges and action thereon under the foregoing provisions of this section :

Provided that no order under this sub-section shall be passed unless the person concerned has had an opportunity of making a representation against the action proposed:

Provided further that it shall be competent for the Government to extend, from time to time, the period of suspension for such further period not exceeding three months, so however that the total period of suspension shall not exceed six months :

Provided also that a person suspended under this sub-section shall not be entitled to exercise the powers and perform the functions attached to his office and shall not be entitled to attend the meetings of the concerned local body except a meeting held for the consideration of a no-confidence motion."

5. Admittedly, the enquiry is not yet completed and the petitioner has been under suspension for more than six months. Since the suspension period shall not exceed more than six months under second provisio to sub-section 6 of section 249 of A.P. Panchayat Raj Act, 1994. the writ petition deserves to be allowed.

6. Accordingly, the writ petition is allowed directing the 1st respondent-District Collector to revoke the order of suspension forthwith if the enquiry initiated against the petitioner has not been culminated into final orders. No costs.

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Justice B. SESHASAYANA REDDY

Date : 06-12-2005.

Note :

Issue CC in three days

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Dvs

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